



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,274	09/23/2005	Nobuya Sato	026032-4896	4434
26371 7590 12/21/2006 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER BARFIELD, ANTHONY DERRELL	
			ART UNIT	PAPER NUMBER
			3636	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/21/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/529,274

Applicant(s)

SATO ET AL.

Examiner

Anthony D. Barfield

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/12/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8, 10-16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 9 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 6-8, 12-16 and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by De Filippo. De Filippo shows the use of a headrest (1) which inherently is provided on a seat with a seatback and seat cushion, including: a generally U-shaped stay (4) detachably coupled to the seatback, the stay including a generally horizontal portion (6) having an axis; and a headrest main body (2) rotatably coupled to the horizontal portion of the stay and including a receiving port (9) for receiving the horizontal portion of the stay; wherein the headrest main body rotates around the axis of the horizontal portion of the stay and wherein the receiving port is located at a position that is coaxial with the axis of the horizontal portion of the stay. The headrest main

Art Unit: 3636

body further has a bracket (7), a skin covering (14) and foaming material (see col. 2 line 14), whereby the skin and foam material form a recess and the receiving port is formed on a side thereof (see Fig. 1). An open length (12) along an anteroposterior direction of the recess has a diameter larger than a vertical portion (5) of the stay.

3. Claims 6-8,10-12,14-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagayasu et al. Nagayasu et al. shows the use of a headrest which inherently is provided on a seat with a seatback and seat cushion, including: a generally U-shaped stay (20) detachably coupled to the seatback, the stay including a generally horizontal portion (20b) having an axis; and a headrest main body (25) rotatably coupled to the horizontal portion of the stay and including a receiving port (25a, 25b) for receiving the horizontal portion of the stay; wherein the headrest main body rotates around the axis of the horizontal portion of the stay and wherein the receiving port is located at a position that is coaxial with the axis of the horizontal portion of the stay. The headrest main body further has a bracket (10), a skin covering (not shown see col. 5 line 6) and foaming material (see col. 4 line 66), whereby the skin and foam material form a recess and the receiving port is formed on a side thereof (see Fig. 1). The receiving port has a diameter, which is smaller than the horizontal portion of the stay.

Allowable Subject Matter

4. Claims 9 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 7/21/2006 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show a *"port for receiving the horizontal portion of the stay therein...a foaming material covering the horizontal portion of the stay and bracket...wherein the hollow receiving port abuts the horizontal portion of the stay and the foaming material"*, the applicant is directed to the above office action as the examiner maintains the position that the "port" so far as defined by the claim invention, is shown by the De Filippo (see Fig. 2) wherein the cross-section picture shows a receiving port located at a position that is coaxial with the axis of the horizontal portion of the stay and which abuts the horizontal portion of the stay and the foaming material. Regarding Nagayasu et al., and the argument that Nagayasu shows *"a pair of slits"* formed on the headrest pad, the examiner is of the opinion that the "slits" are indeed hollow ports with a "very" small diameter so far as defined by the claim invention. Applicant is reminded that a port serves as a "passageway" or opening (Webster's New Riverside University Dictionary).

6. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable **structural** novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Conclusion

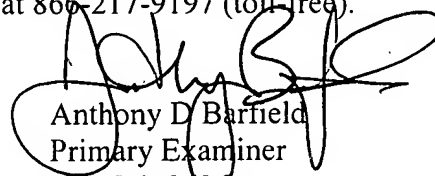
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3636

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony D. Barfield
Primary Examiner
Art Unit 3636

adb

December 19, 2006